

Approved 3/4/09

**TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
January 13, 2009**

Board Present: Chairman Dan Remian, David Cobey, Bob Ellis, Evelyn Kalloch, Frank Muddle, CEO Scott Bickford

Absent: None

1.Call to Order: Chairman Remian called the meeting to order at 7:00 P.M. and a roll call was taken

2. Approve the Minutes of 11/5/08 and 12/3/08: Mr. Cobey, referring to the unapproved minutes of the 11/5/08 meeting, said he would like to see some evidence that the Board could indeed designate the CEO to "issue permits as well as determine elevations and values in the flood plain." Mr. Ellis, who had made that statement in November, said he was not sure it was accurate. CEO Bickford said that in two other towns where he dealt with flood plain elevation it was referred to a surveyor if questions arose. The Board agreed that a surveyor or engineer would have to deal with any questions. Mr. Bickford said responsibilities were listed in the flood plain manual and the onus was on the applicant.

ACTION: Mr. Cobey made a motion, seconded by Mr. Ellis, to accept the minutes of the 11/5/08 meeting.
Carried 5-0-0

Mr. Ellis asked if the Board had received interpretations from MMA and DEP on the intent of Section 15 (B)(4), as they voted to seek on the Kenneth Sawyer application at the 12/3/08 meeting. Mr. Remian reported that DEP said the wording was quite specific and the Board was dealing with only the part that was within the Shoreland Zone [SZ]. CEO Bickford said that Mr. Beckstrom had decided not to pursue the application.

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, that the 12/3/08 minutes be accepted as written.
Carried 5-0-0

3. Rick Klepfer for Mark & Cynthia Giroux, Removal of the Septic Circle, Map 6, Lot 9-10: Mr. Remian asked why Mr. Klepfer wanted a circle removed. Mr. Klepfer responded by saying there was a septic easement for the Giroux's lot across the street, while their septic system was in the middle of their lot. He said the Giroux's would be adding two structures and wanted to move the septic close to Lot 9. At Mr. Cobey's request, he pointed out the septic and well circles on the plan.

Mr. Cobey asked if previous setback problems had been resolved. Mr. Klepfer said the only issue was the amount of canopy that would be removed and this change would eliminate that because the new area had already been cleared for Lot 9's septic. Mr. Bickford asked if Mr. Klepfer wanted to eliminate only the existing well exclusion circle. Mr. Klepfer said he did and that abutters had been notified. Mr. Cobey asked if this change would resolve all the issues the Board had in terms of what the applicants wanted to do on the lot. Mr. Klepfer responded that he did not think there were any issues as they had a permit for everything they wanted to do.

The CEO suggested a condition and note be made that this change was for Lot 10 only. Mr. Remian agreed.

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, to approve the application to eliminate the well exclusion circle on the subdivision plan and to alter the location of the septic system on Lot 10 only.
Carried 5-0-0

4. Rick Klepfer for Stephen Dubord, Application to Increase Building Volume, Map 6, Lot 9-15: Mrs. Kalloch said she thought this had been misinterpreted on James Tower's application and she was leery of someone adding onto the roof in case they wanted to use that additional space in the future. Mr. Klepfer said that Mr. Tower's drawing never addressed volume. Mr. Remian explained to the uninitiated that this was an application for an increase in the building volume by changing the roof pitch. He said the cottage had been in poor condition when bought by Mr. Tower, who had installed a septic system and done some reconstruction.

Mr. Remian asked the purpose of raising the roof and Mr. Klepfer stated that it was for appearance since this was not a very pleasing building; no usable volume would be added. Mr. Cobey said there was a discrepancy between Mr. Tower's drawing and the surveyor's report. Mr. Klepfer said the Board would have to talk with Mr. Tower about that as he could not make sense of the drawings, either. Mr. Bickford said he recalled that Mr. Tower's application had been reviewed when Mr. Tower had bigger issues on the agenda and the footprint had not been adequately scrutinized. The CEO suggested that this application could put an end to a bad situation. Mr. Cobey estimated that the expansion during Mr. Tower's ownership was 50% of volume, rather than the 30% allowed by ordinance. Mr. Bickford said there was no doubt the expansion had been inappropriate, but that was in the past. If the roof change would not add floor space he thought it would be OK.

Mr. Cobey stated that there had clearly been an illegal expansion and he felt the approval should be rescinded. Mrs. Kalloch said she thought it was too late to do that now. Chairman Remian asked Mr. Cobey his reasons for wanting to rescind the whole permit. Mr. Cobey said there was no indication on the plans that it had been a 30% increase and it appeared to him to be at least a 50% increase, without considering the added porch. Mr. Ellis said he would be unable to make a decision on a motion to rescind without doing more research. Mrs. Kalloch said she had brought the subject up because she wanted it to be clear that if the roofline was given a greater pitch no other changes could be made unless the cottage were moved back. The Board members, except Mr. Cobey, felt nothing could be done about the illegal expansion now. Mr. Cobey said 30% would have been 91.44 Sq. Ft. and the addition was 174 Sq. Ft.

CEO Bickford suggested asking MMA if the Board could retract an approval made by a previous PB. Mr. Ellis agreed, though he would rather hear from the town attorney. Mr. Muddle said he did not want to go to DEP without first getting MMA's opinion because if it violated DEP rules it might be exempt since it was approved years ago. Mr. Ellis agreed in principle but felt the legal opinion should come from the town's attorney.

ACTION: Mr. Remian made a motion, seconded by Mr. Cobey, to table the application until we get elevations and volume and a DEP estimate in order to proceed with this and a ruling from MMA.

At this point (approximately 43 minutes into the meeting) the digital recording reverted to the September 2008 meeting. It seems likely the recording device had run out of space.

Respectfully submitted,

Deborah E. Sealey
Recording Secretary